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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,320	06/30/2003	John Forcillo	351	7347
42624	7590	07/14/2006		
DAVIDSON BERQUIST JACKSON & GOWDEY LLP 4300 WILSON BLVD., 7TH FLOOR ARLINGTON, VA 22203			EXAMINER NGUYEN, TAM M	
			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/609,320	Applicant(s) FORCILLO, JOHN	
	Examiner Tam Nguyen	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-40 is/are pending in the application.
- 4a) Of the above claim(s) 10,39 and 40 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9,11-15,17 and 18 is/are allowed.
- 6) ☒ Claim(s) 16 and 19-38 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


JEROME DONNELLY
PRIMARY EXAMINER

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12-19-05</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Election/Restrictions

1. Claims 10, 39 and 40 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Invention I, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on March 29, 2006.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 16, 19-30, 32-35 and 37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 recites the limitation "said actuating member" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 19 recites the limitation "the friction pad" and "the flywheel" in lines 2 and 3 respectively. There is insufficient antecedent basis for these limitations in the claim.

Note, the preamble merely discloses a biasing mechanism **for use** with an exercise bicycle having a friction pad and a flywheel. The components of the exercise bicycle have not been positively recited as being part of the invention. Claims 20-25 are also rejected for being dependent on a rejected base claim.

Claim 26 recites the limitation "the friction brake", "the flywheel" and "The positioning of said rod" in lines 3-5 respectively. There is insufficient antecedent basis for these

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limitations in the claim. Claims 27-30 are also rejected for being dependent on a rejected base claim.

Claim 32 recites the limitation "the flywheel", "the friction pad", "the positioning of said rod" and "the force to be applied onto the flywheel" in lines 3-5. There is insufficient antecedent basis for these limitations in the claim. Claims 33-35 are also rejected for being dependent on a rejected base claim.

Claim 37 recites the limitation "the flywheel", "the friction pad", "the positioning of said rod" in lines 4-5. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 31, 32, 36-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Swift (6,491,606).

3. As to claim 31, Swift discloses an adjustable exercise bicycle comprising a frame (2) including a rotatably mounted wheel (4), a friction member (18) engageable in friction contact with the wheel, and a tensioning mechanism acting on the friction member for applying variable restraining forces to said wheel, said tensioning mechanism including a biasing member (6) positioned to permit the tensioning mechanism to be displaced away from the flywheel to release force on said friction member (see Fig. 2e & Col. 7, lines 40-61).

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4. As to claims 32 and 36, Swift discloses a tensioning mechanism comprising a rod (17), a member (18) permitting adjustment of a force between a flywheel and a friction pad and a resilient element (6) provided on the rod above the member to permit force to be applied onto the flywheel and to permit at least a portion of the force on the flywheel to be released (see Fig. 2e). Swift also discloses that the resilient member permits/does not hinder the rod to be pulled to release the force on the flywheel (see Fig. 2e).

5. As to claims 37, Swift discloses a tensioning mechanism comprising a rod (17), a member (96) permitting adjustment of a force between a flywheel and a friction pad (18) and a resilient element (6) provided on the rod above the member (see Fig. 2e).

6. As to claim 38, Swift discloses an adjustable exercise bicycle comprising a frame (2) including a rotatably mounted flywheel (4), a friction pad (18) positioned above the flywheel and a tensioning assembly mounted on the frame to apply force onto the friction pad wherein the assembly includes a resilient member (6) positioned to permit the tensioning assembly to be moved to release force on said friction pad (see Fig. 2e).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19, 24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen (5,466,203).

7. As to claim 19, Chen discloses a biasing mechanism comprising a force-transmitting member (242) operatively linked to a resistance pad (23) and displaceable for adjusting contact pressure of the resistance pad against a loadwheel/flywheel (12) and a biasing member (244) normally urging the force transmitting member toward the resistance pad wherein the biasing member can be elastically deformable away from a rest position by displacing the force transmitting member away from the flywheel to reduce contact pressure between the pad and the flywheel (see Figs. 2 & 3). Chen does not disclose that the resistance pad is a friction pad. The examiner takes Official Notice that the prior art includes resistance pads that are friction pads. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to substitute Chen's magnetic resistance pad with a friction pad since the use of a friction pad does not require a magnetically compatible flywheel which could reduce the manufacturing cost of the biasing mechanism.

8. As to claim 24, Chen discloses a modified mechanism as described above (see discussion of claim 19). Chen also discloses that the biasing member (244) provides a substantially linear resistance when subjected to elastic deformation (see Figs. 2 & 3).

9. As to claim 26, Chen discloses a tensioning mechanism comprising a rod (242) acting on a brake (23), a member (22) permitting adjustment of a force between the flywheel (12) and the brake by the positioning of the rod and a biasing member (244) urging the rod towards the brake wherein the biasing member can be elastically deformable away from a rest position by displacing the force transmitting member away from the flywheel to reduce contact pressure between the pad and the flywheel (see

Figs. 2 & 3). Chen does not disclose that the brake is a friction brake. The examiner takes Official Notice that the prior art includes brakes that are friction pads. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to substitute Chen's magnetic brake with a friction brake since the use of a friction brake does not require a magnetically compatible flywheel which could reduce the manufacturing cost of the biasing mechanism.

Allowable Subject Matter

10. Claims 9 and 11-15, 17 and 18 are allowed.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

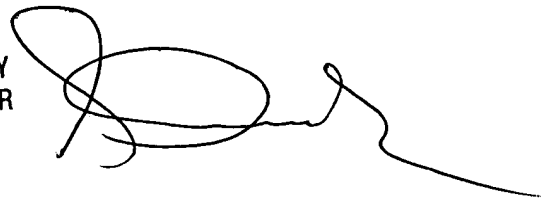
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam Nguyen whose telephone number is 571-272-4979. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

July 7, 2006

JEROME DONNELLY
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to be 'Jerome Donnelly', written over the printed name.